

AMENDED IN SENATE APRIL 28, 2003

**SENATE BILL**

**No. 592**

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**Introduced by Senator Vasconcellos**

February 20, 2003

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An act to amend Section 60061 of, *and to add Chapter 1.5 (commencing with Section 60150) to Part 33 of*, the Education Code, relating to public schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 592, as amended, Vasconcellos. Instructional materials: cost to state.

Existing law requires that a publisher or manufacturer of instructional materials offered for adoption or sale in California to comply with certain requirements, including, but not limited to, furnishing the instructional materials offered by the publisher at a price in this state that, including all costs of transportation to that place, does not exceed the lowest price at which the publisher offers those instructional materials for adoption or sale to any state or school district in the United States.

This bill would require a publisher or manufacturer of instructional materials offered for adoption or sale in California to furnish the instructional materials at a price in this state that, including all costs of transportation, is lower than, or at a minimum does not exceed, the lowest price at which the publisher offers those instructional materials for adoption or sale to any state or school district in the United States.

*This bill would establish the Instructional Materials Cost Effectiveness Advisory Committee and would prescribe its membership and duties.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 60061 of the Education Code is  
2 amended to read:  
3 60061. (a) A publisher or manufacturer shall do all of the  
4 following:  
5 (1) Furnish the instructional materials offered by the publisher  
6 at a price in this state that, including all costs of transportation to  
7 that place, is lower than, or at a minimum does not exceed, the  
8 lowest price at which the publisher offers those instructional  
9 materials for adoption or sale to any state or school district in the  
10 United States.  
11 (2) Automatically reduce the price of those instructional  
12 materials to any governing board to the extent that reductions are  
13 made elsewhere in the United States.  
14 (3) Provide any instructional materials free of charge in this  
15 state to the same extent as that received by any state or school  
16 district in the United States.  
17 (4) Guarantee that all copies of any instructional materials sold  
18 in this state are at least equal in quality to the copies of those  
19 instructional materials that are sold elsewhere in the United States,  
20 and are kept revised, free from all errors, and up to date as may be  
21 required by the state board.  
22 (5) Not in any way, directly or indirectly, become associated or  
23 connected with any combination in restraint of trade in  
24 instructional materials, or enter into any understanding,  
25 agreement, or combination to control prices or restrict competition  
26 in the sale of instructional materials for use in this state.  
27 (6) Maintain a representative, office, or depository in the State  
28 of California or arrange with an independently owned and  
29 operated depository in the State of California to receive and fill  
30 orders for instructional materials.  
31 (7) Provide to the state, at no cost, computer files or other  
32 electronic versions of each state-adopted literary title and the right  
33 to transcribe, reproduce, modify, and distribute the material in  
34 braille, large print if the publisher does not offer a large print  
35 edition, recordings, American Sign Language videos for the deaf,

or other specialized accessible media exclusively for use by pupils with visual disabilities or other disabilities that prevent use of standard instructional materials. Computer files or other electronic versions of materials adopted shall be provided within 30 days of request by the state as needed for the purposes described in this subdivision as follows:

(A) Computer files or other electronic versions of literary titles shall maintain the structural integrity of the standard instructional materials, be compatible with commonly used braille translation and speech synthesis software, and include corrections and revisions as may be necessary.

(B) Computer files or other electronic versions of nonliterary titles, including science and mathematics, shall be provided when technology is available to convert those materials to a format that maintains the structural integrity of the standard instructional materials and is compatible with braille translation and speech synthesis software.

(b) Upon the willful failure of the publisher or manufacturer to comply with the requirements of this section, the publisher or manufacturer shall be liable to the governing board in the amount of three times the total sum that the publisher or manufacturer was paid in excess of the price required under paragraphs (1), (2), and (5) of subdivision (a), and in the amount of three times the total value of the instructional materials and services that the governing board is entitled to receive free of charge under subdivision (a).

*SEC. 2. Chapter 1.5 (commencing with Section 60150) is added to Part 33 of the Education Code, to read:*

*CHAPTER 1.5. INSTRUCTIONAL MATERIALS COST EFFECTIVENESS  
ADVISORY COMMITTEE*

*60150. (a) The Instructional Materials Cost Effectiveness Advisory Committee is hereby established to advise the Superintendent of Public Instruction and the State Board of Education on the pricing and purchase of instructional materials. The advisory committee shall make recommendations to the Superintendent of Public Instruction and to the State Board of Education, at least once in each fiscal year, that are consistent with the requirements of this part and ensure that the state and local*

1 school districts receive maximum value when purchasing  
2 textbooks and other instructional materials.

3 (b) The Instructional Materials Cost Effectiveness Advisory  
4 Committee shall examine the state's process for purchasing  
5 instructional materials including the process for adoption of  
6 elementary and secondary school materials pursuant to this part,  
7 and the obligations of publishers or manufacturers pursuant to  
8 Section 60061, and shall make recommendations to the  
9 Superintendent of Public Instruction and the State Board of  
10 Education to improve the process and obtain high quality  
11 instructional materials for California schools at the lowest  
12 possible price. At a minimum, the advisory committee shall  
13 examine all of the following:

14 (1) Increases in the cost of instructional materials over time  
15 determining, to the extent possible, the amount of increases that  
16 can be attributed to general increases in the cost of living and the  
17 amount of increases that can be attributed to the revision in state  
18 specifications for materials.

19 (2) Technology, including, but not limited to, electronic media  
20 or alternative formats, that may allow instructional materials to  
21 be acquired for lower costs or allow materials to be made more  
22 available to pupils at no increased cost.

23 (3) The potential for reducing instructional materials costs by  
24 bulk purchasing or purchasing the rights to reproduce materials.

25 (4) The potential for establishing an indexed maximum price  
26 schedule prior to initiating the adoption process.

27 (5) The potential for reducing instructional materials costs by  
28 purchasing less durable materials more frequently.

29 (6) Cost containment or reduction practices that may be used  
30 in other purchases of instructional materials.

31 (7) Any means by which California schools may obtain more or  
32 better quality instructional materials at the lowest possible costs.

33 60151. (a) The Instructional Materials Cost Effectiveness  
34 Advisory Committee shall be composed of 13 members, as follows:

35 (1) The Superintendent of Public Instruction, or the  
36 superintendent's designee.

37 (2) The President of the State Board of Education, or the  
38 president's designee.

39 (3) The Chairperson of the Senate Committee on Education, or  
40 his or her designee.

1     (4) *The Chairperson of the Assembly Committee on Education,*  
2 *or his or her designee.*

3     (5) *The Vice Chairperson of the Senate Committee on*  
4 *Education, or his or her designee.*

5     (6) *The Vice Chairperson of the Assembly Committee on*  
6 *Education, or his or her designee.*

7     (7) *One representative of the Legislative Analyst's Office.*

8     (8) *The Director of Finance, or his or her designee.*

9     (9) *Five members, chosen by the Superintendent of Public*  
10 *Instruction, to include:*

11     (A) *One public school teacher.*

12     (B) *One member of a governing board of a school district.*

13     (C) *One public school administrator.*

14     (D) *One parent of a public school pupil.*

15     (E) *One public school pupil, or former pupil who was a public*  
16 *school pupil within two years of appointment to the advisory*  
17 *committee.*

18     (b) *The members of the advisory committee shall serve without*  
19 *compensation for a renewable term that, except for ex officio*  
20 *members, may not exceed two years.*

21     (c) *The State Department of Education staff shall assist the*  
22 *State Board of Education and the advisory committee.*

23     (d) *It is the intent of the Legislature that the members of the*  
24 *advisory committee have experience and knowledge working with*  
25 *California's diverse pupil population and urban and rural areas*  
26 *of the state and its members shall be selected from populations that*  
27 *reflect the diverse population of the state, to the extent possible.*